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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,959	12/12/2001	Elke Kraft	3827.088	3236

7590 01/26/2005

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EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,959

Applicant(s)

KRAFT ET AL.

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 20 is objected to because of the following informalities: the Applicant is advised to remove parenthesis at "strain at break". Appropriate correction is required.

Claims 15-20 are objected to because of the following informalities: since the same floor is being claimed, the preamble of the dependent claims 16-20 should be cited as "The floor" instead of "A floor".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard claim 14, the cited limitation "the adhesive has a shear strength in the hardened condition which is less than 1.2 N/mm² and less than that of the sub-floor" is confusing because the examiner is uncertain what condition that the applicant is referring to? And what is the sub-floor condition? And the similar issues in claims 19-20. Clarification is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

As best understood, claims 14, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Bers (US 5,564,251).

In regard claims 14, 15, 19, and 20, Van Bers teaches a wood floor comprising a concrete sub-floor 1 (col. 1, lines 34-35) continuously covered with a layer 2 of an elastic and/or resilient material provided with an adhesive layer (col. 1, lines 42-51), covering elements 5, 6, of wood material (col. 2, lines 36-37). Van Bers does not teach specifically wherein the adhesive layer has a layer thickness of 0.5-5mm, and wherein the adhesive has a shear strength is less than 1.2N/mm², and is from 0.6-1.0N/mm²; and the adhesive in the hardened condition has a shore (A) hardness of 20-35, and has a break elongation of 300-1000%. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have the specific parameters for the adhesive material, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Having the specific parameters for the adhesive material would have been an obvious design choice based on desired use for better bonding between wood material and sub-floor.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Bers in view of Wood (US 5,721,302).

Van Bers teaches the structural elements for the wood floor as stated except for the adhesive is comprised of a reaction-type resin which hardens upon exposure to water, a polyurethane or polyurethane hybrid resin, modified silicone polymers. Wood teaches high shear strength adhesive material that could be used for flooring materials

Art Unit: 3635

that including polyether or polyester-polyurethane synthetic resin, an amount of resin hardening agent (see abstract and cols. 2-3). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute Van Bers adhesive material for Wood. The motivation for doing so would have been to provide sufficient bonding between wood materials and sub-floor. Although Van Bers and Wood do not teach the specific chemical compositions such as modified silicone polymers. The examiner takes Official Notice the fact that the modified silicone polymers would have been an obvious functional equivalent to polyurethane synthetic resin adhesive material that taught by Wood because it would performed the similar function such as providing a bonding reaction between wood floor and sub-floor.

Claims 21-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Bers in view of Wood.

In regard to method claims 21-33, Van Bers and Wood teach the structural elements for the floor as stated. Van Bers and Wood do not teach expressly method steps for adhering floor covering elements, examiner considers this to be the obvious method of setting up device because in adhering flooring covering elements, one must obviously select a sub-floor area to be covered, and select a desirable adhesive material then apply adhesive material on top of the sub-floor, lay wooden flooring materials along the adhesive material. Van Bers and Wood would be motivated to follow these steps to facilitate assembly to make a wood floor.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lewis, Marino, Troendle, Marino, Omholt, Doyle, and Barrett teach floor-covering materials.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

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BRIAN E. GLESSNER
PRIMARY EXAMINER